



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Transportation
<b>Virginia Administrative Code (VAC) citation</b>	24VAC30-155
<b>Regulation title</b>	Traffic Impact Analysis Regulations
<b>Action title</b>	Small Area Plan Streamlined Analysis
<b>Date this document prepared</b>	Revised 12/01/09

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

The proposed amendments to the regulation make several modifications based on recent improvements to the coordination between transportation and land use. The amendments also add regulatory references to accommodate promulgation of other regulations since the last amendment to this regulation.

With respect to modifications concerning coordination between transportation and land use, one set of proposed amendments allows more flexibility for local governments that develop small area plans for all of or a portion of an urban development area designated pursuant to § 15.2-2223.1 of the Code of Virginia, or for a transit oriented development. These local governments may complete a single traffic analysis for all parcels included in the small area plan at the comprehensive plan stage of the development process. This traffic impact analysis can be used for the traffic impact statement required for any parcel within the small area plan at the rezoning stage of the development proposal provided the rezoning is in substantial conformance with the small area plan. These amendments will reduce the number of traffic impact analyses required for developments located within small area plan. Another proposed amendment requires VDOT to adopt at least one non-Institute of Transportation Engineers methodology for determining the trip generation of development proposals within small area plans. The approved methodology will need to recognize the reduced vehicle trip generation of mixed-use, compact development patterns and transportation demand management measures.

## Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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On November 30, 2009, the Virginia Department of Transportation approved initiation of the fast-track action to amend the Traffic Impact Analysis Regulations (24 VAC 30-155) as described in this document.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.*

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Chapter 527 of the 2006 Acts of Assembly (SB699) added §15.2-2222.1 to the Code of Virginia. The legislation required VDOT to develop traffic impact analysis regulations for development proposals with a substantial impact on the state highway network.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The purpose of the proposed amendments are to:

- Ensure that the traffic impacts of developments such as transit-oriented development and those located within urban development areas are accurately determined without placing an additional burden on those proposing such developments.

The existing regulation contains provisions that are appropriate for determining the traffic impacts of suburban and rural developments. The regulation further requires additional approvals from VDOT to use trip generation methodology that accurately determines traffic impacts of urban developments.

Compact, mixed-use development concentrated near existing growth and infrastructure can help reduce the demand for transportation capacity. The proposed amendments would provide for a streamlined analysis process for these types of developments.

- Ensure that applicable provisions of the Secondary Street Acceptance Requirements (24 VAC 30-92), the Access Management Regulations: Principal Arterials (24 VAC 30-72) and Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24 VAC 30-73) are included in the traffic impact analyses.

## Rationale for using fast track process

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

The rationale for using this process is to facilitate prompt implementation of the amended regulatory provisions. The general purpose of the action is to encourage local governments to develop small area plans when they initially designate their urban development areas. Properly implemented urban development areas will help reduce demand for transportation capacity in the future; however, the regulatory language in the existing text can make this type of proactive planning difficult. Because the amendments are intended to ease the burden of compliance on regulated parties, as well as provide updated references to other pertinent regulations, VDOT does not consider this action to be controversial.

Local governments have until 2011 to designate urban development areas in their comprehensive plans pursuant to 15.2-2223.1. The Secretary of Transportation's Office of Intermodal Planning and Investment recently initiated a grant program for local governments to develop small area plans for their urban development areas, and it is anticipated that other local governments will develop similar plans to help developer-funded transportation improvements move forward in conjunction with the development of their urban development areas.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)*

The purpose of the proposed amendments are to ensure that the traffic impacts of developments, such as transit oriented development and those located within urban development areas, are accurately determined without placing an additional burden on those proposing such developments. The revisions require that the Department approve a trip generation methodology that accurately determines the traffic impacts of urban developments.

In addition, the proposed amendments provide local governments with the option of conducting a single analysis for all parcels that are part of a small area plan for an urban development area or a transit oriented development. Concentrated, compact development can provide benefits for the transportation system through reduced demand for transportation capacity. However, these benefits are not always quantified when pieces of a small area plan are considered individually.

The single analysis completed for the small area plan may be eligible to serve as the traffic impact statement and the supplemental traffic impact analysis required for a development proposal at the zoning and site plan/subdivision plat stages of the development process.

The proposed amendments will also ensure that the applicable provisions of the Secondary Street Acceptance Requirements and the Access Management Regulations: Principal Arterials (24 VAC 30-72) and Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24 VAC 30-73) are included in the traffic impact analyses.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*  
3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

The proposed amendments provide advantages to local governments and the business community by creating a streamlined process for the analysis of traffic impacts for developments in small area plans. Local governments are not required to use the new streamlined process, and may use the existing process if they so desire under the amendments. The optional streamlined process can help reduce the cost and time necessary to comply with the requirements of the existing regulation. Since the streamlined process is optional, there are no disadvantages to the regulated community.

The Commonwealth will likely benefit from increased planning for development patterns that reduce the impact of the demand for transportation capacity, and will also benefit from reduced review of traffic impact analysis for development proposals located in small area plans. VDOT will benefit from having a regulation that accurately references applicable regulations affecting traffic impact assessments. There are no disadvantages to the Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements related to traffic impact analysis for any development proposals.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

This regulation applies to all developments that will have a substantial impact on the state highway system and accordingly affects localities with state maintained highways and localities whose road systems connect to state maintained highways.

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

Since this regulation is associated with a legislative mandate, the General Assembly clearly intended the objectives associated with Chapter 527 to be accomplished through regulation.

- 1) The establishment of less stringent compliance or reporting requirements - the option for localities of conducting a single analysis for all parcels that are part of a small area plan for an urban development area or a transit oriented development, if used, should reduce the burden on developers to prepare multiple analyses.
- 2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements - not addressed by these amendments.
- 3) The consolidation or simplification of compliance or reporting requirements - the option for localities of conducting a single analysis for all parcels that are part of a small area plan for an urban development area or a transit oriented development, if used, should reduce the burden on developers to prepare multiple analyses.
- 4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation - not addressed by these amendments.
- 5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation - as this regulation is intended to be applied statewide, its effectiveness would be compromised by exempting small businesses from its requirements.

The proposed amendments to the regulation provide the regulated communities with additional options to meet the requirements of the regulation, thereby increasing the flexibility of the existing regulation.

The existing regulation is required by the Code of Virginia.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>The proposed amendments will not increase the cost to the state to implement the proposed regulation. The Department will need to use resources to analyze and approve an alternative trip generation methodology. Over the long-term, the proposed amendments may result in decreased state expenditures.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>The proposed amendments will not increase the cost of the regulation for localities and may reduce</p>

	the cost to localities by reducing the number of traffic impact analysis submissions and staff time required.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	The proposed amendments will not increase the cost of the regulation for the business community and may reduce the cost to localities by reducing the number of traffic impact analysis submissions and staff time required.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The proposed amendments to the regulation provide alternative options to comply with the requirements of the regulation. As the alternatives are not mandatory, the number of entities affected by the proposed amendments will range from less than 10 to more than 300. Since the existing regulations were implemented in July 2007, 399 traffic impact analyses have been completed.
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	The proposed amendments to the regulation will not result in increased cost to affected individuals, businesses, or other entities as it provides additional flexibility to satisfy a requirement that affected entities would have to satisfy under the existing regulation.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

VDOT considered leaving the existing regulation in effect as is, however as the proposed amendments may help reduce the burden on the regulated community; this alternative was not considered an appropriate action.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

Improving the coordination between land-use and transportation planning will have a positive impact on the institution of the family and family stability. The amendments will improve the clarity and effectiveness of the regulation in assisting policymakers and the public to make informed land-use and transportation decisions that promote enhanced quality of life for all Virginians.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
Section 10		Current definition is out of date with other regulations.	Revised definition of “connectivity index” based on provisions of Secondary Street Acceptance Requirements (24 VAC 30-92).
Section 10		None.	Added definition of “floor area ratio” as term is used regarding eligible density for small area plans.
Section 10		Current definition is out of date with other regulations.	Added definition of “intersection” and removed definition of “link” based on provisions of Secondary Street Acceptance Requirements (24 VAC 30-92).
Section 10		None.	Added definition of “network addition” based on provisions of Secondary Street Acceptance Requirements (24 VAC 30-92).
Section 10		Current definition is out of date with other regulations.	Removed definition of “node” to be consistent with provisions of Secondary Street Acceptance Requirements (24 VAC 30-92).
Section 10		None.	Added definition of “small area plan” to state requirements for a local development plan to be considered a small area plan.
Section 10		None.	Added definition of “street segment” based on provisions of Secondary Street Acceptance Requirements (24 VAC 30-92).
Section 10		Current definition is out of date with other regulations.	Revised definition of “stub-out” based on provisions of Secondary Street Acceptance Requirements (24 VAC 30-92).
Section 10		None.	Added definition of “transit oriented development” as term is used in small area plan definition.
Section 10		None.	Added definition of “transportation demand management” as term is used in body of regulation.
Section 10		None	Added definition of “urban development area” as term is used in small area plan definition.
Section 30		None.	Added new subsection C related to “small area plan packages.” This new language will provide local governments with the option of completing a single analysis for all parcels

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
			that are part of an eligible small area plan.
Section 40		None.	Added new subsection that describes criteria that must be met to allow for a small area plan analysis to be considered adequate for development's traffic impact statement.
Section 50		None.	Added new subsection that describes criteria that must be met to allow for a small area plan analysis to be considered adequate for a development's supplemental traffic impact analysis.
Section 60		None.	Added requirement that VDOT approve a trip generation methodology for small area plan analysis that recognizes the reduced trip generation and vehicle miles traveled from certain forms of development by July 1, 2011.
Section 60		Current language specifies use of Institute of Transportation Engineer's trip generation methodology.	Added language that allows "pass-by" and "internal capture" to be based on either of the adopted trip generation methodologies for small area plan analyses.
Section 60		Current language specifies use of Institute of Transportation Engineer's trip generation methodology.	Added language that requires that the effects of the Secondary Street Acceptance Requirements (24 VAC 30-92) and increased network connectivity be considered.
Section 60		Current language requires trip distribution to be based on logical regional travel patterns as suggested by existing highway directional split and intersection movements or population and destination site distribution	Revised language to clarify analysis requirement and add that effects from bus rapid transit may be considered.
Section 60		Current language requires analysis of transit quality of service.	Added language clarifies that the TIS may consider benefits of dedicated bus lanes for more frequent and rapid service. Added language clarifies that TIS trip reductions prepared for small area plans may be based on non-ITE trip generation methodology approved by VDOT.
Section 70		Current language requires VDOT to provide preliminary recommendations with other VDOT regulations.	Revised language clarifies that the recommendations shall address the Secondary Street Acceptance Requirements, the Access Management Regulations: Principal Arterials, and the Access Management Regulations: Minor Arterials, Collectors, and Local Streets.
Section 80		Current language outlines	Added language regarding fee for review of

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		fees for review of various types of traffic impact analyses.	small area plan proposals/submission analyses under 24 VAC 30-155-40 C1.
Section 90		Current language outlines phased implementation which has been completed.	Marked section as "Repealed," as it is now obsolete.
Section 100			Updated listing of documents incorporated by reference.